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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION FOUR

THE PEOPLE,

Plaintiff and Respondent,

v.

ROBERT WALTER WILLIAMS, JR.,

Defendant and Appellant.

A158301

(Napa County
Super. Ct. No. CR185158)

MEMORANDUM OPINION¹

I.

On July 31, 2019, pursuant to a negotiated agreement, Robert Walter Williams, Jr. pleaded no contest to one count of stalking (Pen. Code, § 646.9, subd. (a)) and one count of making criminal threats (Pen. Code § 422). He also admitted a prior strike conviction and a serious or violent felony conviction for carjacking. (§ 667, subds. (a)(1), (b)–(i).)

The trial court overruled Williams’s *Dueñas* objection, sentenced him to six years eight months in state prison, and ordered him to pay a \$300

¹ We resolve this case by memorandum opinion pursuant to California Standards of Judicial Administration, section 8.1. (See *People v. Garcia* (2002) 97 Cal.App.4th 847, 853–855.)

restitution fine (which it suspended unless parole is revoked), an \$80 court security fee, \$60 criminal conviction fee, waived a \$560 probation investigation fee, and waived the \$600 attorney fee.

This timely appeal of the sentence followed.

II.

The sole issue presented is whether, under *Dueñas, supra*, 30 Cal.App.5th 1157, it was a violation of Williams's state and federal due process rights to impose the court security and court facilities fees and the restitution fine, without first holding a hearing on Williams's ability to pay.

Even assuming Williams's objection was adequately preserved, it is clear the trial court did not simply impose all requested fines and fees by rote, without considering his claimed ability to pay. We so conclude in light of the fact that the court suspended the \$300 restitution fine, which it could only have done on the authority of *Dueñas*.

Although the record is unclear with respect to the \$140 in court security and court facility fees, we think it evident that the court did consider Williams's claimed inability to pay there, too, in light of its suspension of the restitution fine and waiver of the \$560 probation investigation fee and the \$600 attorney fee.

Implicitly, in our view, the trial court concluded that the offer of proof Williams made on the issue of inability to pay the court security and court facility fees failed to satisfy his burden of proof, given the prospect that prison wages could be a source of payment. (See *People v. Kopp* (2019) 38 Cal.App.5th 47, 96, review granted Nov. 13, 2019, S257844.) We view that as an appropriate application of *Dueñas, supra*, 30 Cal.App.5th, 1157, consistent with *People v. Cowan* (2020) 47 Cal.App.5th 32, 49.

DISPOSITION

The sentence is affirmed.

STREETER, J.

WE CONCUR:

POLLAK, P. J.

BROWN, J.